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District of Oregon

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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

UNITED STATES OF AMERICA

No. CR 10-55-02-MO

v.

**GOVERNMENT'S SENTENCING
MEMORANDUM**

JOSE I. HERNANDEZ FLORES,

Defendant.

DATE: November 22, 2010

TIME: 11:30 p.m.

The United States of America, by United States Attorney Dwight C. Holton, United States Attorney for the District of Oregon, through Kathleen L. Bickers, Assistant United States Attorney for the District of Oregon, submits this memorandum for the court's consideration pursuant to the defendant's plea of guilty to Count 1, Conspiracy to Distribute Heroin, Count 2, Distribution of Heroin, and Count 3, Distribution of Heroin.

REASONABLE SENTENCE

The government concurs with the facts set forth in the presentence report (PSR)

including its assessment that the defendant's criminal history places him in Category I. The parties stipulate that defendant's relevant conduct pursuant to USSG §§1B1.3 and 2D1.1(a)(1)(c)(1) is at least thirty (30) kilograms of heroin and that the defendant's distribution of heroin resulted in the death of two other persons, Patrick McGinnis and Joshua Reeves, for a Base Offense Level of 38, prior to adjustments.

The parties agreed to recommend that a sentence of 156 months be imposed and stipulated that this sentence would be a reasonable sentence in consideration of the factors set forth in 18 U.S.C. 3553. The government detailed these factors in a previously submitted letter to the court dated September 7, 2010.

Additionally, the defendant and the government agreed to request the court order the defendant to pay full restitution for expenses related to the deaths of Joshua Reeves and Patrick McGinnis. Joshua's mother, Ms. Tony Macy, advised counsel for the government that her family's expenses totaled \$950.00. The government requests that the judgment of conviction include an order of restitution that this amount be paid to Ms. Macy. The government has not yet received information from the McGinnis family regarding their expenses for Patrick. Once this information is received, it will be forwarded to US Probation and defense counsel.

Dated this 17th day of November 2010.

Respectfully submitted,

DWIGHT C. HOLTON
United States Attorney
District of Oregon

/s/ Kathleen L. Bickers
KATHLEEN L. BICKERS
Assistant United States Attorney